

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 04-0287
STATE GROSS RETAIL TAX
For Years 2000 AND 2001**

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. State Gross Retail Tax—Undefined protest

Authority: I.C. 6-8.1-5-1

Taxpayer protests the proposed assessments of Indiana's State Gross Retail tax.

STATEMENT OF FACTS

Taxpayer owned and operated a convenience store/gas station. An audit was conducted for the years under protest and the Department of Revenue made an assessment. Taxpayer protested and the field auditor conducted a supplemental review that resulted in a reduction of the original assessment. The supplemental review addressed the issue originally raised by the taxpayer. However taxpayer did not wish to forego the hearing, so a hearing was accordingly scheduled. Taxpayer did not contact the Department or attend the hearing, and the Department prepared a Letter of Findings based on the above information.

I. State Gross Retail Tax—Undefined protest

DISCUSSION

IC § 6-8.1-5-1 states in relevant part:

(a) If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department. The amount of the assessment is considered a tax payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. The department shall send the person a notice of the proposed assessment through the United States mail.

....

(i) The department shall demand payment, as provided in IC 6-8.1-8-2(a), of any part of the proposed tax assessment , interest, and penalties that it finds owing because:

.....

(2) the person requested a hearing but failed to appear at that hearing;

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Aside from the adjustments granted in the supplemental review of the original assessment, taxpayer failed to present any additional basis for overturning or reducing the remaining assessment. Taxpayer also failed to appear at the scheduled hearing. Based on taxpayer's failure to appear or participate in the scheduled hearing as required in IC § 6-8.1-5-1, taxpayer protest is denied.

FINDING

Taxpayer's protest is denied.

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